

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-060914
	:	TRIAL NO. B-0601565
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
ANTHONY BALLEW,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Anthony Ballew was convicted of trafficking in cocaine in violation of R.C. 2925.03(A)(1). The trial court imposed a five-year prison term that was consecutive to the prison term imposed in a case numbered B-0301831.

The state's evidence at trial established that Ballew sold 1.70 grams of crack cocaine to an undercover police officer for five \$20 bills that had been previously photocopied. A confidential informant arranged and attended the sale, which took place in the bathroom of a hotel that was located in the vicinity of a school. Immediately after Ballew left the bathroom, a police officer took Ballew to the floor and recovered the five previously copied \$20 bills on the floor next to Ballew's hand.

Ballew testified and claimed that he had met with the confidential informant because she owed him money. Further, he claimed that he did not have any drugs with

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

him and that he never took any money from the informant or the undercover officer. Finally, Ballew admitted that he had been convicted of several felonies.

In his sole assignment of error, Ballew argues that his conviction was against the manifest weight of the evidence. After reviewing the record, we find no merit to Ballew's challenge.

A weight-of-the-evidence review requires an appellate court to sit as a "thirteenth juror."² We must review the entire record, weigh the evidence, consider the credibility of the witnesses, and determine whether the trier of fact clearly lost its way and created a manifest miscarriage of justice³

Our review of the record does not persuade us that the jury clearly lost its way and created a manifest miscarriage of justice when it found Ballew guilty of the trafficking offense. Although Ballew denied the sale, the weight to be given the evidence and the credibility of the witnesses were primarily for the trier of fact.⁴ Accordingly, we overrule the assignment of error and affirm the trial court's judgment.

Further, a certified copy of this Judgment Entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R.24.

SUNDERMANN, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 28, 2007

per order of the Court _____.

Presiding Judge

² *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.

³ *Id.*

⁴ *State v. DeHass* (1967), 10 Ohio St.2d 230, 227 N.E.2d 212, paragraph one of the syllabus.